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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,049	11/02/2001	Charles F. Malone	KPF / 54	4375

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EXAMINER

MELWANI, DINESH

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/002,049	MALONE ET AL.
	Examiner Dinesh N Melwani	Art Unit 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 November 2001.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) 18 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 2/12/02 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I - Figures 1-5

Species II - Figures 6-7

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-17 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with Thomas Humphrey on 09/27/02 a provisional election was made without traverse to prosecute the invention of an oven door lock mechanism comprising a single bimetallic leaf, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claim 18 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Siegel (U.S. Patent No. 3,540,767). Siegel discloses an oven door locking mechanism as claimed, wherein said mechanism comprises a thermally responsive element (46) which locks and unlocks the oven door at substantially different temperatures, see col. 1, lines 15-60. Siegel's mechanism

locks the oven door at a temperature of 675 °F and unlocks it at a substantially lower temperature of 550 °F; see col. 4 lines 21 and 62. In regards to claim 4, Siegel also discloses a clutch mechanism (Fig. 4 and col. 3, lines 60-75), wherein a “clutch” is defined by the *Merriam-Webster's Collegiate Dictionary* 10<sup>th</sup> Edition as a coupling used to connect and disconnect a driving and driven part of a mechanism. Furthermore, Siegel's clutch mechanism includes a thermally responsive element (46), a clutch (A in Fig. 4), and a lock member (generally 52), wherein said clutch has a first side and a second side, wherein said first side is engaged with said second side, see Fig. 4.

6. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox (U.S. Patent No. 4,862,870). Fox discloses an oven door locking mechanism as claimed, wherein said mechanism comprises a thermally responsive element (80) which locks and unlocks the oven door at substantially different temperatures, see Abstract. Additionally, Fox's mechanism includes a clutch mechanism (B in Fig. 3), wherein said mechanism includes a thermally responsive element, a clutch, and a lock member (94). Furthermore, Fox's clutch has a first side and a second side, wherein said first side is engaged with said second side.

#### *Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox (U.S. Patent No. 4,862,870) in view of Staples (U.S. Patent No. 3,984,214). Fox discloses an oven locking mechanism substantially as claimed, wherein said mechanism includes a clutch mechanism having a thermally responsive element. However, Fox does not disclose the specific means of connection of the present invention. Staples discloses a door locking apparatus for a cooking oven that teaches the use of a first spring (66) in contact with locking member (64), wherein said lock member defines a first side of said clutch as a "keyed aperture" (E in Fig. 4), said keyed aperture comprising an annular recess and engaged with an element having an elongated slot similar in structure to the thermally responsive element (80 of Fox). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Staples, in regards to the use of a keyed aperture, to provide Fox with an alternate means of connecting lock member (94) and thermally responsive element (80) by replacing Fox's connection means with that of Staples such that the thermally responsive element can be removed and exchanged for an element having varying temperature ranges.

In regards to claims 13 and 14, Fox's latch mechanism further includes a lock hole (34) and a mounting bracket (25), wherein the use of Staples connecting means would require spring (66) to be affixed to said bracket as shown in Staples Fig. 4. Fox's thermally responsive element is a bimetallic leave secured at a first end and defining a slot at second end (G in Fig. 3).

Regarding claims 15 and 16, Fox's lock hole (34) comprises a receiver member (33), wherein said receiver member is a bushing.

Claim 17 is rejected as being unpatentable over Fox in view of Staples as set forth above in paragraphs 5-8 of this Office Action.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Case (U.S. Patent No. 4,718,705) and Kerr (U.S. Patent No. 4,039,993) disclose an oven door locking mechanism substantially as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM  
October 16, 2002

  
J. J. SWANN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600